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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,985	10/05/2006	Nathan Arthur Tranter	42-000600US	5992
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EXAMINER				
ING, MATTHEW W				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/580,985

Applicant(s)

TRANTER ET AL.

Examiner

MATTHEW W. ING

Art Unit

3637

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-22 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 5-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 02 June 2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/2/11 has been entered.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 6/2/10 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

3. The drawings filed 6/2/10 have not been entered because Figure 3, as amended, constitute(s) new matter. It is noted that, although the written description and claims 19-20 as originally filed do mention a "motor", the particular configuration of motor in Figure 3, as amended is not necessarily implied by said written description & claims. Alternate configurations are possible; for example, a different type of motor, having a different position and/or configuration. Although the written description does state that "one of the axes/rods could be extended outside the frame in such a way that a motor may be attached to the axle allowing the panel or panels to be rotated by the motor", this passage merely refers to the length of a rod, and the connection of said rod to a motor. The motor in question is not described as being coaxial with said rod, nor "positioned adjacent to frame section 46". As such, the

particular configuration shown in Figure 3, as amended, is considered to constitute new matter.¹

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the remote-controlled motor (claims 19-20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

¹ In view of the non-entry of amended Fig. 3, the amendment to the specification made 12/29/10 is not appropriate.

6. Claims 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Regarding claim 15, the use of the term "first panel" renders this claim indefinite, since it is unclear whether "first panel" refers to Item 56 in the instant application, or to Item 54. The text of claim 15 suggests that "first panel" refers to Item 54, since it is 54 (and not 56) that features "a pair of legs extending therefrom". However, the text of dependent claim 17, when read in combination with that of claim 5, suggests that "first panel" and "second panel" respectively refer to Items 56 & 54, since 56 is coplanar with the frame (42) in the first position (Fig. 3), while 54 is coplanar with the frame in the second position (Fig. 4). Clarification is required. For the purposes of examination, the examiner is considering "first panel" in claim 15 to mean "second panel", and to correspond to Item 56 in the instant application. In addition, the examiner is considering "first panel" and "second panel" in claim 17 to refer to Items 56 & 54, respectively.

8. Regarding claims 16-18, the dependence of such claim(s) upon an indefinite base claim renders said claim(s) indefinite.

Claim Rejections - 35 USC § 102

9. Claims 1, 11-12, 14, & 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Noellert (5,954,410).

10. Regarding claim 1, Noellert teaches an apparatus comprising a frame (28) having an opening (defined by inner edges of 28) and mounted on or in a surface of said cavity (spaced

between 14'); a member (22) moveable within the frame and for securing the product; and a pivot assembly (32) connecting the frame to the member, thereby enabling movement of the member between a first position (Fig. 1) and a second position (Fig. 2) wherein the pivot assembly is located adjacent an opening to said cavity; such that in the first position the product is concealed from view, and in the second position the product is in view and accessibly mounted for immediate personal operation and ready for use by a user without requiring the product to be physically removed from the apparatus.

11. Regarding claim 11, Noellert teaches a first panel (18') and a second panel (24) connected by one or more side frames.

12. Regarding claim 12, Noellert teaches a first panel (18') that is coplanar (in the sense that a plane parallel to, and passing through 18', is also parallel to, and also passes through, 28) with the frame (28) and substantially covers the opening (defined by inner edges of 28) in the first position.

13. Regarding claim 14, Noellert teaches a portion of the first panel (18') being connected to the frame (28) through the pivot assembly (32). See Fig. 5.

14. Regarding claim 21, since a cell phone, keyboard or appropriately-sized laptop (including monitor) could be placed within the apparatus of Noellert, said apparatus can therefore be characterized as being "configured to receive . . . a . . . keyboard, telephone or monitor."

15. Regarding claim 22, Noellert teaches a frame (28) capable of being mounted from a ceiling (Figs. 1-2).

16. Claims 1, 11, & 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Vogel (2,048,363).

17. Regarding claim 1, Vogel teaches an apparatus comprising a frame (8) having an opening and mounted on or in a surface (inner surface of 2) of a cavity (space behind 2); a member (5-6, 9) moveable within the frame and for securing the product; and a pivot assembly (4, 7) connecting the frame (via portion of 2 between 4 & 8) to the member, thereby enabling movement of the member between a first position and a second position wherein the pivot assembly is located adjacent an opening to said cavity; such that in the first position the product is concealed from view, and in the second position the product is in view and accessibly mounted for immediate personal operation and ready for use by a user without requiring the product to be physically removed from the apparatus.

18. Regarding claim 11, Vogel teaches a member (5-6, 9) comprising a first panel (9) and a second panel (rear portion of 5) connected by one or more side frames (5a).

19. Regarding claims 21-22, Vogel teaches a member (5-6, 9) clearly capable of holding an appropriately-sized a projector unit, keyboard, telephone or monitor; as well as a frame capable of being mounted on or in a surface (Fig. 1) being a wall or part of a piece of furniture.

20. Claims 1, 11-14, & 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolf (4,002,382).

21. Regarding claim 1, Wolf teaches a frame (front portion of 37 around 54) having an opening and mounted on or in a surface of said cavity; a member (combination of 54 & 57-59) moveable within the frame and for securing the product; and a pivot assembly (56) connecting the frame to the member, thereby enabling movement of the member between a first position and

a second position wherein the pivot assembly is located adjacent an opening to said cavity; such that in the first position the product is concealed from view, and in the second position the product is in view and physically accessible and ready for use by a user.

22. Regarding claim 11, Wolf teaches a member comprising a first panel (54) and a second panel (59) connected by one or more side frames (57-58).

23. Regarding claim 12, Wolf teaches a first panel (54) coplanar with the frame and substantially covers the opening in the first position (i.e., when 54 is closed).

24. Regarding claim 13, Wolf teaches a second panel (59) coplanar with the frame and substantially covers the opening in the second position (i.e., when 54 is perpendicular to 48).

25. Regarding claim 14, Wolf teaches a portion of the first panel (54) is connected to the frame through the pivot assembly (56).

26. Regarding claims 21-22, Wolf teaches a member (54 & 57-59) clearly capable of holding an appropriately-sized a projector unit, keyboard, telephone or monitor; as well as a frame (front portion of 37 around 54) capable of being mounted on or in a surface being a wall or part of a piece of furniture.

27. Claims 1, 11, 13-14, & 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt (5,927,837).

28. Regarding claim 1, Schmidt teaches an apparatus comprising a frame (14 & 16) having an opening (defined by inner surfaces of 14 & 16) and mounted on or in a surface of a cavity (defined by bottom surface of 30, front surface of 28, bottom surface of 32, and inner surfaces of 24-25); a member (36) moveable within the frame and for securing the product; and a pivot assembly (60 & horizontal portion of 58) connecting the frame to the member, thereby enabling

movement of the member between a first position (Fig. 4) and a second position (Fig. 5) wherein the pivot assembly is located adjacent an opening to said cavity (Fig. 7); such that in the first position a product (48) is concealed from view, and in the second position the product is in view and accessibly mounted for immediate personal operation and ready for use by a user without requiring the product to be physically removed from the apparatus (see Figs. 4-5 & 7).

29. Regarding claim 11, Schmidt teaches a member (36) comprising a first panel (38) and a second panel (40) connected by one or more side frames (42).

30. Regarding claim 13, Schmidt teaches a second panel (40) being coplanar with the frame (14 & 16) and substantially covers the opening in the second position.

31. Regarding claim 14, Schmidt teaches a portion of the first panel (38) being connected (albeit indirectly - see Fig. 7) to the frame (14 & 16) through the pivot assembly (60 & horizontal portion of 58). Alternately, Schmidt can be viewed as teaching a first panel (38) and a second panel (44), said first panel (38) being connected (albeit indirectly - see Fig. 7) to the frame (14 & 16) through the pivot assembly (60 & horizontal portion of 58).

32. Regarding claim 21, since a cell phone, keyboard or appropriately-sized laptop (including monitor) could be placed within the apparatus of Schmidt, said apparatus can therefore be characterized as being "configured to receive . . . a . . . keyboard, telephone or monitor."

33. Regarding claim 22, Schmidt teaches a frame (14 & 16) capable of being mounted from a piece of furniture (i.e., cabinet 10).

Claim Rejections - 35 USC § 103

34. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) as applied to claim 11, in view of Schnurer (4,706,845).

35. Schmidt teach(es) the structure substantially as claimed, including frame (14 & 16), and a member (36) comprising a first panel (38). The only difference between Schmidt and the invention as claimed is that Schmidt fail(s) to teach making a first panel coplanar with the frame and substantially covers the opening in the first position.

36. Schnurer, however, broadly teaches shaping a frame (combination of 46, & downwardly-protruding edge behind 62) to make a first panel (52) coplanar with the frame (specifically, with the front edges of 46 - see Figs. 4-5); and giving a first panel (52) a smooth front surface. The examiner submits that, when applying the teachings of Schnurer to the structure of Schmidt, one of ordinary skill would understand that making the first panel of Schmidt coplanar with the frame would require reducing the length of said first panel & including a recess along the inner edges of said frame.

37. It would have been obvious to one of ordinary skill in the art to make the first panel of Schmidt smooth, as taught by Schnurer, in order to improve the aesthetic appearance thereof; and to modify the frame & member of Schmidt such that the first panel is coplanar with the frame thereof, in order to present a more sleek appearance by preventing said first panel from protruding beyond the front of the cabinet of Schmidt.

38. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) as applied to claim 14. Schmidt teach(es) the structure substantially as claimed, including a second panel (44) having a leg (non-horizontal portion of 58) extending therefrom, a distal end of said leg being connected to the frame (14 & 16) via the pivot assembly (60 & horizontal portion of 58). The only difference between Schmidt and the invention as claimed is that Schmidt fail(s) to teach extending a pair of legs from said second panel, a distal end of each

leg being connected to the frame through the pivot assembly. However, it is noted that mere duplication of the essential working parts of a device has been held to involve only routine skill in the art. It would have been obvious to one of ordinary skill in the art to add a second leg & pivot assembly to the member of Schmidt, in order to provide additional support thereto.

39. Regarding claim 15, it is alternately noted that Schmidt can be viewed as teaching first (38) and second (40) panels; and a leg (non-horizontal portion of 58); and that the examiner takes OFFICIAL NOTICE that extending a pair of legs from a rear panel of a pivotable member is well-known in the art. It would have been obvious to one of ordinary skill in the art to add a second leg & pivot assembly to the member of Schmidt, in order to provide additional support thereto; and to extend both legs of Schmidt as modified from the second panel thereof, in order to provide additional support to the rear of said member.

40. Regarding claim 16, Schmidt as modified teaches a pivot assembly comprising a rod (horizontal portion of 58) attached to or formed in each of the legs and a bush (60) formed in opposing sections of the frame for receiving a respective rod, the frame (14 & 16) comprising four sections (16 at top & bottom, 14 on sides).

41. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) as applied to claim 16, in view of Schnurer (4,706,845).

42. Schmidt as modified teach(es) the structure substantially as claimed, including a side frame (42) shaped to enable a second panel (40) to remain coplanar with and in the frame (see Fig. 7) in the second position (Fig. 5). The only difference between Schmidt as modified and the invention as claimed is that Schmidt as modified fail(s) to teach shaping a side frame to enable the first panel to remain coplanar with and in the frame in the first position.

43. Schnurer, however, broadly teaches shaping a frame (combination of 46, & downwardly-protruding edge behind 62) and side frame (58) to make a first panel (52) coplanar with the frame (specifically, with the front edges of 46 - see Figs. 4-5); and giving a first panel (52) a smooth front surface. The examiner submits that, when applying the teachings of Schnurer to the structure of Schmidt, one of ordinary skill would understand that making the first panel of Schmidt coplanar with the frame would require reducing the length of said first panel, reducing the width of the side frames, & including a recess along the inner edges of said frame.

44. It would have been obvious to one of ordinary skill in the art to make the first panel of Schmidt as modified smooth, as taught by Schnurer, in order to improve the aesthetic appearance thereof; and to modify the frame & member of Schmidt as modified such that the first panel is coplanar with the frame thereof, in order to present a more sleek appearance by preventing said first panel from protruding beyond the front of the cabinet of Schmidt as modified.

45. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) & Schnurer (4,706,845) as applied to claim 17, in view of Vogel (2,048,363). Schmidt as modified teach(es) the structure substantially as claimed, including side frames (42). The only difference between Schmidt as modified and the invention as claimed is that Schmidt as modified fail(s) to teach side frames each comprising four segments joined in the shape of a quadrilateral, with a segment joined respectively to the first panel and the second panel. Vogel, however, teaches the inclusion, in each side frame of a member (5b) of four segments (5a) joined in the shape of a quadrilateral (Figs. 5 & 7), with a segment joined respectively to a first panel (9) and a second panel (rear of 5b). Since 5b is described as a "container", the examiner submits that the side frame on each side of the container comprises not only the four segments (5a), but

also a vertical planar member extending rearwardly from, and perpendicularly to, the front panel (9). It would have been obvious to one of ordinary skill in the art to add four segments, as taught by Vogel, to each of the side frames of Schmidt as modified, in order to provide structural reinforcement thereto.

46. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) as applied to claim 1, in view of Nott (2002/0079792). Schmidt teach(es) the structure substantially as claimed, including a pivot assembly (60 & horizontal portion of 58). The only difference between Schmidt and the invention as claimed is that Schmidt fail(s) to teach a remote controlled motor connected to the pivot assembly in order to control the pivot means assembly to operate the member to move between the first position and the second position. Nott, however, teaches a remote controlled (par. 72) motor (M) connected to a pivot assembly in order to control the pivot means assembly to operate the member to move between the first position and the second position. It would have been obvious to one of ordinary skill in the art to connect a remote-controlled motor, as taught by Nott, to the pivot assembly of Schmidt, in order to reduce the amount of effort required for a user to actuate the member thereof, thereby providing the structure substantially as claimed.

Response to Arguments

47. Applicant's arguments filed 6/2/10 have been fully considered but they are not persuasive.

48. In response to applicant's argument that the prior art fails to teach "an apparatus that accessibly mounts a product for immediate personal operation by a user without requiring the product to be physically removed from the apparatus," a recitation of the intended use of the

claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. As noted above, Schmidt teaches a product (48) mounted to a member, and usable without removal of said product from said member. So also does Noellert (i.e., supports secured via pegs 26). Additionally, since the members of Vogel and Wolf are capable of having products mounted thereto, wherein said products are usable without removal from said members, the structures of Vogel & Wolf are likewise viewed as reading upon the limitations of the claims.

49. As for applicant's argument that no motivation or rationale exists to modify the prior art, it is noted that adequate motivations are set forth the prior art rejections above. Applicant's argument is therefore not found persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWI
4/4/11
/José V. Chen/
Primary Examiner, Art Unit 3637